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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/776,317	02/11/2004	Charles Lepage	086089-9059-02	4104
23409	7590	08/01/2006	EXAMINER	
MICHAEL BEST & FRIEDRICH, LLP 100 E WISCONSIN AVENUE MILWAUKEE, WI 53202			PAHNG, JASON Y	
			ART UNIT	PAPER NUMBER
			3725	

DATE MAILED: 08/01/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/776,317	Applicant(s) LEPAGE ET AL.	
	Examiner Jason Y. Pahng	Art Unit 3725	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 19 May 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 4-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 20 is/are allowed.
- 6) ☒ Claim(s) 4-19 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date: _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date: _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Specification

The amendment overcomes the specification objection made in the last Office action.

Claim Objections

The amendment overcomes the claim objection made in the last Office action.

Double Patenting

Claim 17 is objected to under 37 CFR 1.75 as being a substantial duplicate of claim 6. When two claims in an application are duplicates or else are so close in content that they both cover the same thing, despite a slight difference in wording, it is proper after allowing one claim to object to the other as being a substantial duplicate of the allowed claim. See MPEP § 706.03(k).

Allowable Subject Matter

Claim 20 is allowed.

Claims 13-16 would be allowable if the limitation "wherein the distance between the respective forks and the length of each fork may be adjusted to accommodate different sizes of bales" is added to claim 13.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 4 and 5 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hruska (US 6,199,781) in view of Raben (US 5,562,392). Hruska discloses substantially all of the claimed structure including:

1. a chassis (101) having a front (102) and back end and a left and right side;
2. a bale receptacle (1) mounted on the chassis (101);
4. a disintegrator (20) mounted in the bale receptacle (1) adapted to disintegrate baled crop material and to discharge processed material out of the bale receptacle (1);
5. a fork lift (50; Figure 2) mounted toward the back end of the chassis (101) having a fork lift frame pivotally connected to the chassis (101) and forks on the fork lift frame extending rearward of the chassis (101) with each fork having a free end distal from the chassis (101);
6. a hydraulic cylinder (51) connected between the fork lift frame and the chassis (101) adapted to pivot the fork lift frame between a first position near ground and a second position above the receptacle (1); and

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7. the fork lift (50) is adapted to retain the bales as the fork lift frame is pivoted between the first and second positions and to release the bale into the receptacle.

Hruska's bale carrying fork lift does not have a material carrier extending inwardly towards the opposing forks. In a closely related fork lift art, Raben discloses a fork lift with a material carrier extending inwardly towards the opposing forks (216) in order to prevent material to pass between the forks. Therefore, it would have been obvious to one skilled in the art at the time the invention was made to provide Hruska with a fork lift with a material carrier extending inwardly towards the opposing forks in order to prevent material to pass between the forks, as taught by Raben.

With regard to claim 5, Raben's material carrier is already attached to a bottom surface of the respective forks (Figure 10).

Claims 6 and 13-19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hruska (US 6,199,781) in view of Raben (US 5,562,392), further in view of Chain et al. (US 4,325,666).

With regard to claims 6, 13, and 17, Hruska (as modified) discloses a bale carrier, but it does not comprise rods with three sections each tapering inwardly, extending forwardly, and tapering outwardly. Such rod carriers, to provide a large area of added support to hold bale is well known in the art. In a closely related art, Chain discloses rod bale carriers with three sections (252, 264; Figures 2 and 3) each tapering inwardly, extending forwardly, and tapering outwardly in order to provide a large area of added support to hold bale. Therefore, it would have been obvious to one skilled in the

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art at the time the invention was made to provide Hruska (as modified) with a rod bale carriers with three sections each tapering inwardly, extending forwardly, and tapering outwardly in order to provide a large area of added support, as taught by Chain.

With regard to claim 14, Raben is applied as applied in claim 5.

With regard to claims 15, 16, 18, and 19, Hruska discloses forks capable of longitudinally accommodating different sizes of bales such as one large square bale or two small bales.

Claims 7-11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hruska (US 6,199,781) in view of Raben (US 5,562,392), further in view of Sanderson (US 4,938,652) and Ronnblom (US 5,338,148). Claims 7-11 call for the distance between the respective forks and the length of each fork to be adjustable. A fork lift with a variety of adjustable feature is routine and well known in the art. In a closely related fork lift art, Sanderson discloses a fork lift which is adjustable in length and Ronnblom discloses a fork lift which is adjustable in separating distance (Figure 6) in order to help lift material of different configurations. Therefore, it would have been obvious to one skilled in the art at the time the invention was made to provide Hruska (as modified) with a fork lift with routine features, including a fork lift which is adjustable in length and adjustable in separating distance, in order to lift material of different configurations, as taught by Sanderson and Ronnblom.

Claim 12 is rejected under 35 U.S.C. 103(a) as being unpatentable over Hruska (US 6,199,781) in view of Raben (US 5,562,392), further in view of Hedgespeth (US 4,348,143). Claim 12 calls for a bale spear. In a closely related art, Hedgespeth

discloses a bale lifter with a bale spear (22) in order to provide additional holding.

Therefore, it would have been obvious to one skilled in the art at the time the invention was made to provide Hruska (as modified) with a bale spear in order to provide additional holding, as taught by Hedgespeth.

Response to Arguments

Applicant's arguments filed May 19, 2006 have been fully considered but they are not persuasive.

Applicant presents two arguments regarding claim 4.

1) Applicant argues that "the low profile and tapered nature of the bale carriers facilitates the bale carriers being slid longitudinally under a bale" (page 12). Applicant argues that same issues do not arise with regard to Raben because Raben lifts tires. However, Raben utilizes the same features to solve the same problems. Raben uses the low profile and tapered nature of the carriers to facilitate the carriers being slid longitudinally under a tire.

2) Applicant also argues that the rounded corners of the carriers of Raben could not perform the function of the tapered carrier of claim 4 because the claimed carrier is adapted to help slide beneath a bale. In fact, the rounded corners of the carriers of Raben also helps it slide beneath material. If there were no roundings for Raben, the end portion may be too big and less pressure is applied. However, because

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of the roundings, the end portion is smaller and more pressure is applied to help it slide beneath material.

Applicant does not present new additional arguments regarding the rest of the claims.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jason Y. Pahng whose telephone number is 571 272 4522. The examiner can normally be reached on 9:00 AM - 7:00 PM, Monday-Thursday.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Derris Banks can be reached on 571 272 4419. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

JYP


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